



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the 21st Antidumping Duty Administrative Review; 2014-2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) published the *Preliminary Results* of the 21st administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) on December 9, 2016. We gave interested parties an opportunity to comment on the *Preliminary Results*. The period of review (POR) is November 1, 2014, and October 31, 2015. The mandatory respondents in this review are: Zhengzhou Harmoni Spice Co., Ltd. (Harmoni) and Qingdao Tiantaixing Foods Co., Ltd. (QTF).

Based upon our analysis of the comments and information received, we made no changes to the margin calculated for voluntary respondent, Shenzhen Xinboda Industrial Co., Ltd. (Xinboda). As discussed below, the Department continues to find that QTF withheld requested information, significantly impeded the administrative review, and did not cooperate to the best of its ability. Accordingly, we continue to use adverse facts available. However, in a change from the *Preliminary Results*, we find that QTF is not eligible for separate rate status, and thus, is a part of the PRC-wide entity. The Department is also rescinding the review with respect to Harmoni and Jinxiang Jinma Fruits Vegetables Products Co., Ltd. (Jinxiang Jinma), as discussed below.

These determinations and the final dumping margins are discussed below in the “Final Results” section of this notice.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kathryn Wallace or Alexander Cipolla,
AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade
Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington,
DC 20230; telephone 202-482-6251 or 202-482-4956, respectively.

SUPPLEMENTARY INFORMATION:

The Department published the *Preliminary Results* on December 9, 2016, in which it preliminarily determined that QTF and Harmoni each failed to cooperate to the best of its ability. As a result, the Department preliminarily found that Harmoni had not rebutted the presumption that it is part of the PRC-wide entity, and we preliminarily based QTF’s dumping margin on adverse facts available. The Department also preliminarily found that Xinboda sold merchandise to the United States at less than normal value. Finally, we preliminarily granted a separate rate to five companies which demonstrated their eligibility for separate rate status, but were not selected for individual examination.¹ In accordance with 19 CFR 351.309, we invited parties to comment on our *Preliminary Results*. The petitioners,² the New Mexico Garlic Growers Coalition (NMGGC),³ Xinboda, QTF, Harmoni, and Jinxiang Hejia Co., Ltd. (Hejia) timely filed case briefs, pursuant to our regulations.⁴ Additionally, the petitioners, the NMGGC, Xinboda,

¹ See *Fresh Garlic from the People’s Republic of China: Preliminary Results and Partial Rescission of the 21st Antidumping Duty Administrative Review; 2014-2015*, 81 FR 89050 (December 9, 2016) (*Preliminary Results*) and accompanying Issues and Decision Memorandum (PDM).

² The petitioners are the Fresh Garlic Producers Association (FGPA) and its individual members: Christopher Ranch LLC, The Garlic Company, Valley Garlic, and Vessey and Company, Inc.

³ The NMGGC, at the time of initiation, consisted of Avrum Katz of Boxcar Farm and Stanley Crawford of El Bosque Farm.

⁴ See NMGGC’s Case Brief, “Case Brief Filed on Behalf of the New Mexico Garlic Growers Coalition and El Bosque Farm in the 21st Administrative Review of Fresh Garlic from the People’s Republic of China” (March 24,

and Harmoni timely filed rebuttal briefs.⁵ The deadline for the final results of this review was April 10, 2017. On March 15, 2017, the Department extended the deadline in this proceeding by 60 days to June 7, 2017.⁶

Scope of the Order

The merchandise covered by the order includes all grades of garlic, whole or separated into constituent cloves. Fresh garlic that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 0703.20.0000, 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, 2005.99.9700. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive. For a full description of the scope of this order, please see “Scope of the Order” in the accompanying Issues and Decision Memorandum.⁷

2017); *see also* Xinboda’s First Case Brief, “Fresh Garlic from the People’s Republic of China – Case Brief” (March 24, 2017); *see also* QTF’s Case Brief, “Case Brief of Qingdao Tiantaixing Foods Co., Ltd.,” (March 24, 2017); *see also* Petitioners’ First Case Brief, “Fresh Garlic from the People’s Republic of China – Petitioners’ Case Brief,” (March 24, 2017); *see also* Harmoni’s Case Brief, “Harmoni Administrative Case Brief: 21st Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People’s Republic of China (A-570-831),” (March 24, 2017); *see also* Xinboda’s Second Case Brief, “Case Brief of Shenzhen Xinboda Industrial Co. Ltd. (“Xinboda”) Re: Data Issues” (April 11, 2017); *see also* Hejia’s Case Brief, “Case Brief Jinxiang Hejia Co., Ltd.” (April 11, 2017); *see also* Petitioners’ Second Case Brief, “Petitioners’ Case Brief Concerning Shenzhen Xinboda Industrial Co., Ltd” (April 11, 2017).

⁵ *See* NMGGC’s Rebuttal Brief, “Rebuttal Brief – Filed on Behalf of the New Mexico Garlic Growers Coalition and El Bosque Farm in the 21st Administrative Review of Fresh Garlic from the People’s Republic of China,” (March 31, 2017); *see also* Xinboda’s First Rebuttal Brief, “Fresh Garlic from the People’s Republic of China – Letter Rebuttal Brief” (March 31, 2017); *see also* Petitioners’ First Rebuttal Brief, “Petitioners’ Rebuttal Brief” (March 31, 2017); *see also* Harmoni’s Rebuttal Brief, “Harmoni’s Rebuttal Brief: 21st Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People’s Republic of China (A-570-831)” (March 31, 2017); *see also* Xinboda Second Rebuttal Brief, “Rebuttal Brief of Shenzhen Xinboda Industrial Co., Ltd. (“Xinboda”) Re: Data Issues” (April 18, 2017); *see also* Petitioners’ Second Rebuttal Brief, “Petitioners’ Second Case Rebuttal Brief” (April 18, 2017).

⁶ *See* Memorandum, “Fresh Garlic from the People’s Republic of China – 21st Administrative Review (2014-2015): Extension of Deadline for the Final Results of the Review” (March 15, 2017).

⁷ *See* Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Fresh Garlic from the People’s Republic of China; 2014-2015,” dated concurrently with this notice (IDM).

Partial Rescission of Administrative Review

As discussed in the IDM,⁸ the Department is rescinding the review with respect to Harmoni and Jinxiang Jinma based on the Department's determination that the NMGGC's request for review was not credible.

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs by parties in this review in the IDM. Appendix I provides a list of the issues which parties raised. The IDM is a public document and is on file in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and in the CRU. In addition, a complete version of the IDM can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>. The signed IDM and the electronic versions of the IDM are identical in content.

Changes since the *Preliminary Results*

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, and for the reasons explained in the IDM, including the application of facts available with an adverse inference, we revised our decision regarding QTF's eligibility for a separate rate, and further collapsed the QTF-entity to include Hebei Golden Bird Trading Co., Ltd. and Huamei Consulting.⁹ For the final results of this review, the Department has also updated the list of companies subject to this review that are found to be part of the PRC-wide

⁸ See IDM at Comment 1.

⁹ As discussed in the IDM, the QTF-entity includes Qingdao Tiantaixing Foods Co., Ltd. (QTF); Qingdao Tianhefeng Foods Co., Ltd. (QTHF); Qingdao Beixing Trading Co., Ltd. (QBT); Qingdao Lianghe International Trade Co., Ltd. (Lianghe); and Qingdao Xintianfeng Foods Co., Ltd. (QXF); Hebei Golden Bird Trading Co., Ltd. (Golden Bird); Huamei Consulting (collectively, the QTF-entity)

entity. For a list of all issues addressed in these final results, please refer to Appendix I accompanying this notice.

Final Determination of No Shipments

In the *Preliminary Results*, the Department preliminarily determined that the companies listed in Appendix III timely filed “no shipment” certifications and did not have any reviewable transactions during the POR. Consistent with the Department’s assessment practice in non-market economy (NME) cases, we completed the review with respect to the companies listed in Appendix III. For the companies listed in Appendix III, CBP provided no evidence to contradict the claims of these companies of no shipments. Based on this information, we continue to determine that the companies listed in Appendix III did not have any reviewable transactions during the POR. *See* Appendix III.

As discussed in the IDM, in the *Preliminary Results*, CBP indicated that although Shenzhen Yuting Foodstuff Co., Ltd. (Yuting) had certified no shipments, in fact, it had shipments during the POR.¹⁰ Following the *Preliminary Results*, Yuting sufficiently clarified the discrepancy with the Department.¹¹ As noted in the “Assessment Rates” section below, the Department intends to issue appropriate instructions to CBP for the companies listed below based on the final results of this review.

¹⁰ *See* IDM at “Final Determination of No Shipments.”

¹¹ As noted in the IDM, in the preliminary results, the Department considered Yuting to be a part of the PRC-wide entity because CBP data indicated that it did have a shipment during the POR. However, based on Yuting’s clarification, the Department finds that Yuting is no longer considered to be a part of the PRC-wide entity, and accordingly, we intend to liquidate the entry at the rate established in the prior administrative review.

PRC-Wide Entity

As discussed in the *Preliminary Results*, the Department's policy regarding conditional review of the PRC-wide entity applies to this administrative review.¹² Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity, the entity is not under review and the entity's rate (*i.e.*, \$4.71/kg) is not subject to change. Aside from the no shipment companies discussed above, the Department considers all other companies for which a review was requested, and which did not qualify for a separate rate, to be part of the PRC-wide entity. *See* Appendix II.

Separate Rates

In the *Preliminary Results*, the Department found that non-selected companies Jinan Farmlady Trading Co., Ltd., Jining Alpha Food Co., Ltd., Shandong Jinxiang Zhengyang Import & Export Co., Ltd., Shenzhen Bainong Co., Ltd., and Weifang Hongqiao International Logistics Co., Ltd., demonstrated their eligibility for a separate rate.¹³ We continue to find that those five companies are eligible for a separate rate. As discussed in the IDM, the Department granted QTF separate status in the Preliminary Results. However, we now find that the QTF-entity did not rebut the presumption of government control.¹⁴ As such, it did not demonstrate its eligibility for a separate rate. QTF has commented on our preliminary decision, and we have addressed its comments in the IDM.

¹² *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

¹³ *See Preliminary Results* at Appendix II.

¹⁴ *See* IDM at 6 and Comment 4.

In the *Preliminary Results*, we assigned the non-selected separate rate companies the dumping margin calculated for Xinboda. No parties commented on this. We continue to use Xinboda's margin as the margin for the non-selected separate rate companies in these final results.

Final Results of Administrative Review

The weighted-average dumping margins for the administrative review are as follows:

Exporter	Weighted-Average Margins (dollars per kilogram)
Shenzhen Xinboda Industrial Co., Ltd.	\$2.27
Jinan Farmlady Trading Co., Ltd.	\$2.27
Jining Alpha Food Co., Ltd.	\$2.27
Shandong Jinxiang Zhengyang Import & Export Co., Ltd.	\$2.27
Shenzhen Bainong Co., Ltd.	\$2.27
Weifang Hongqiao International Logistics Co., Ltd.	\$2.27
PRC-Wide Rate	\$4.71

Assessment Rates

Pursuant to section 751(a)(2)(A) and (C) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.212(b), the Department has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

Where the respondent reported reliable entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).¹⁵ Where the Department calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the

¹⁵ See 19 CFR 351.212(b)(1).

total sales quantity associated with those transactions, the Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit rates.¹⁶ Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis*, the Department will instruct CBP to collect the appropriate duties at the time of liquidation.¹⁷ Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis*, the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹⁸ We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate.

Pursuant to the Department's assessment practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide entity rate. Additionally, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide entity rate.¹⁹

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporter listed above, the cash deposit rate will be the rate established in the final results of review (except, if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ See 19 CFR 351.106(c)(2).

¹⁹ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of \$4.71 per kilogram; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. The deposit requirements shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is

subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: June 7, 2017.

Ronald K. Lorentzen
Acting Assistant Secretary
For Enforcement and Compliance

Appendix I – Issues and Decision Memorandum

1. Whether the Department Should Rescind the Review of Harmoni and Jinxiang Jinma
2. Whether Hejia is Eligible for a Separate Rate
3. Yuting's No Shipment Status
4. Whether the Application of AFA to QTF-Entity was Warranted, and Whether the QTF-Entity is Eligible for a Separate Rate
5. The Department's Application of the \$4.71 per kilogram AFA Rate
6. Whether the Department Properly Calculated Xinboda's EP
7. Whether the Department Should Rely on Total AFA in Assigning a Dumping Margin to Xinboda
8. Whether the Department Correctly Selected Romania as the Surrogate Country and Whether Mexico has the Highest Quality of Data Available

Appendix II – List of Companies Under Review Subject to the PRC-Wide Rate

1. Jining Yongjia Trade Co., Ltd.
2. Jinxiang Hejia Co., Ltd.
3. The QTF-entity
4. Shandong Zhifeng Foodstuffs Co., Ltd.
5. Zhong Lian Farming Product (Qingdao) Co., Ltd.

Appendix III – Companies That Have Certified No Shipments

1. Jining Yifa Garlic Produce Co., Ltd.
2. Jining Shengtai Fruits & Vegetables Co., Ltd.
3. Jining Shunchang Import & Export Co., Ltd.
4. Jinxiang Guihua Food Co., Ltd.
5. Jinxiang Richfar Fruits & Vegetables Co., Ltd.
6. Qingdao Maycarrier Import & Export Co., Ltd.
7. Qingdao Sea-Line International Trading Co., Ltd.
8. Shandong Chenhe International Trading Co., Ltd.
9. Shijiazhuang Goodman Trading Co., Ltd.
10. Yantai Jinyan Trading, Inc.

[FR Doc. 2017-12302 Filed: 6/13/2017 8:45 am; Publication Date: 6/14/2017]